

REMARKS:

Claims 9, 11, 12 and 14 were rejected under 35 USC 102(b) as anticipated by US Patent 4,918,104 (Weiss).

Specifically, the office action states that 'Weiss disclosed a method of increasing uptake of omega-3 fatty acids in an animal comprising of: administering to an animal, which produces egg ..., a composition of cholesterol, such as fish ... and a source of omega-fatty acid, such as linseed oil.'

Regarding Weiss, applicants agree that Weiss teaches the addition of fish meal or menhaden oil. Fish oil or meal is typically added as a protein source or as a source of omega-3 fatty acids, not as a cholesterol source. Specifically, fish meal is a commercial product consisting of the waste from fisheries after the human-consumable material is removed or from whole fish which are not suitable for human consumption (http://en.wikipedia.org/wiki/Fish_meal). Fish oil is derived from the tissues of oily fish (http://en.wikipedia.org/wiki/Fish_oil). Fish such as sardines typically have 85 mg of cholesterol per 3 ounces whereas fish such as salmon typically have 20 mg per 3 oz. typically amount of cholesterol (<http://www.annecollins.com/cholesterol/cholesterol-in-fish.htm>). Given that 1 ounce = 28.3495231 grams and 3 ounces = approximately 79 grams, this means that even an 'oily' fish such as sardine is less than 0.11% cholesterol and a feed portion supplemented with 10% fish meal would be less than 0.011% cholesterol, which is below the amount claimed in the amended claims. Thus, the amount of cholesterol in a fish is relatively small and is also variable from fish to fish, as discussed above.

Furthermore, as can be seen in the 'Hedonic Preference Evaluation' table at column 5 of US Patent 4,918,104, the feed containing the fish meal (F-166 and F-167) produced chickens with white meat having a 'good; fishy; not tasty/funny' taste (F-166) or a 'bland; good; unfamiliar' taste (F-167) and dark meat having an 'awful; fishy; strange' taste (F-

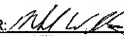
166) or an 'awful; bland; fishy; strange; old' taste. Thus, this reference in fact shows that the addition of even 10% fish meal can have detrimental effects on taste of the food products made from the animal.

Thus, Weiss teaches the addition of fish oil or fish meal as a source of omega-3 fatty acids. As discussed above, while fish oil and fish meal do contain cholesterol, the amounts of cholesterol contained therein are typically low and highly variable. That is not applicant's invention. Specifically, applicant has found that the addition of cholesterol to a diet when also providing a source of omega-3 fatty acids results in greater than expected uptake of the omega-3 fatty acids. That is, the additional cholesterol aids in the ingestion or absorption of the omega-3 fatty acids. For example, as discussed in Example 1 and Figure 4 of the application as filed, a diet comprising 10% flaxseed and 0.5% cholesterol increased 18:3 fatty acid content to over 20% of total fatty acid content compared to approximately 11% for 10% flaxseed alone or approximately 5% for 0.5% cholesterol alone.

Further and more favorable consideration is respectfully requested.

Respectfully submitted

Grant Pierce

PER: 
Michael Williams
Registration # 45,333

Enc.()

Winnipeg, Manitoba, Canada
Telephone (204) 944-0034 - FAX (204) 942-5723